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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/487.923 01/19/00 SWARTZ

J 467XXB

023704
SYMBOL TECHNOLOGIES INC
LEGAL DEPARTMENT
ONE SYMBOL PLAZA
HOLTSVILLE NY 11742

MMC1/0731

EXAMINER

ST CYR.D

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Applicati n N .	Applicant(s)	
	09/487,923	SWARTZ ET AL.	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 and 39-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 10 and 39-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 5/9/01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 10, 39-43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen [5,250,789, reference supplied by the applicants] in views of Shah et al. [5,428,546] and Curbelo [5,899,285].

Re claims 10 and 41: Johnsen teaches a vehicle cradle for housing a portable terminal in a vehicle used to deliver items to a destination address [Fig. 1, area above 12], said cradle comprising:

a housing for receiving the portable terminal in a fixed location [Fig. 1, area above 12];

a power management system for delivering power to the portable terminal when received in the fixed position [Fig. 2, 36; Fig. 3, 44; col. 7, lines 35+];

a communication port for communicating data from the vehicle cradle to the portable terminal [Fig. 2, 34; Fig. 3, 34; col. 7, lines 41+];

Johnsen fails to teach a GPS system locator coupled to said communication port for generating a location signal and transmitting said signal to the portable terminal, whereby the location of the vehicle is transmitted to the portable terminal by the vehicle cradle.

Shah teaches an apparatus for tracking vehicle location using GPS system [Fig. 7, 702]; col. 4, lines 67+].

In view of Shah's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known GPS system into the teachings of Johnsen due to the fact that the use of such device would make the system more versatile and allows the system to track the location of the vehicle and thus allows the system to know what kind of sales merchandise may be in the vicinity and alerts the user to avail to the specials that may be on sale. Accordingly, such modification would have been an obvious extension as taught by Johnsen, and therefore an obvious expedient.

Re claims 40 and 42: Johnsen teaches a vehicle cradle wherein the cradle further comprises: an antenna transmitter for transmitting a set of transmission signals received from the portable terminal over a communication port [Fig. 3, 40, 48; col. 7, lines 41+].

Johnsen fails to specifically teach transmitting over a wireless wide area communication network.

However Johnsen has fairly disclosed communication via the antenna with the store's central computer [col. 7, lines 43+].

In view of Johnsen's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known wide area network into the teaching of Johnsen due to the fact that the use of such device would make the system more versatile by allowing a faster link and access with other peripheral equipment attached to the central computer. Accordingly, such modification would have been an obvious extension as taught by Johnsen, and therefore an obvious expedient.

Re claim 43: Johnsen teaches a vehicle cradle wherein the communication port is a wireless communication transceiver [Fig. 3, 40, 48; col. 7, lines 55+].

Re claim 39: Johnsen teaches a system for fulfilling orders placed from a remote computer, said system comprising:

a portable terminal having a data communication network connection for retrieving the order from the central order processor [Fig. 3, 40, 42, 48]; and

a delivery vehicle for delivering goods to a customer location [Fig. 1, 12], said delivery vehicle including a portable data collection terminal [Fig. 1, 10, 14, 16, 18, 20] and a vehicle cradle for said portable data collection terminal [Fig. 1, area above 12].

Johnsen fails to specifically teach a communication network for communicating an order from the remote computer to a central order processor.

However Johnsen has fairly disclosed communication via the antenna with the store's central computer [col. 7, lines 43+].

In view of Johnsen's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known communication network into the teaching of Johnsen due to the fact that the use of such device would make the system more versatile by allowing a faster link and access with other peripheral equipment attached to the central computer. Accordingly, such modification would have been an obvious extension as taught by Johnsen, and therefore an obvious expedient.

Johnsen fails to specifically teach an order including a customer destination location for delivering completed order.

However Johnsen has fairly disclosed a customer identification system [Fig. 7, 52; col. 9, lines 7+].

In view of Johnsen's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known customer destination into the teaching of Johnsen due to the fact that the use of such device would make the system more versatile by allowing a more efficient delivery of goods gathered in the vehicle. Accordingly, such modification would have been an obvious extension as taught by Johnsen, and therefore an obvious expedient.

Re claim 45: Johnsen teaches a vehicle cradle for receiving a portable terminal in a vehicle [Fig. 1, area above 12], said cradle comprising:

a portable terminal receiving housing for receiving the portable terminal and holding said terminal in a fixed position [Fig. 1, area above 12];

a communication port for receiving data from the portable terminal [Fig. 2, 34; col. 7, lines 41+]; and

a signal transmitter for transmitting the data received from the portable terminal [Fig. 42, 48; col. 7, lines 55+].

Johnsen fails to specifically teach transmitting over a wireless wide area communication network. See rejection of claim 40.

Johnsen fails to specifically teach a battery charger for charging the battery of a portable terminal;

However Johnsen has fairly disclosed a rechargeable power supply [Fig. 3, 44; col. 7, lines 35+].

In view of Johnsen's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known battery charger into the teaching of Johnsen due to the fact that the use of such device would make the system more versatile by allowing a more permanent source of power and thus lowering maintenance cost by not having to change batteries as often. Accordingly, such modification would have been an obvious extension as taught by Johnsen, and therefore an obvious expedient.

Johnsen as modified by Shah fails to disclose a motorized vehicle.

Curbelo discloses a motorized personal shopping cart for allowing personal items to be carried easier (see figure 1; col. 4, line 8+).

In view of the disclosure of Curbelo, it would have been obvious for an ordinary skill in the art to modify the system of Johnsen as modified by Shah by including a motor for propelling the cart. Such modification would eliminate the stress and strain of pulling or pushing a load of personal items. Therefore, it would have been an obvious expedient.

Art Unit: 2876

4. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen [5,250,789, reference supplied by the applicants] as modified by Shah et al. [5,428,546] and Curbelo [5,899,285] and further in view of O'Hagan et al. [5,821,513]. The teachings of Johnsen as modified by Shah and Curbelo have been discussed above.

Johnsen as modified by Shah and Curbelo fails to teach a vehicle cradle wherein the wireless communication port is an infra-red communication transceiver.

O'Hagan teaches a shopping cart mounted data collection device with an infra-red communication transceiver [Fig. 5, 164; col. 4, lines 40+; col. 4, 63+].

In view of O'Hagan's disclosures it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known infra red device into the teaching of Johnsen as modified by Shah and Curbelo due to the fact that the use of such device would make the system more versatile by allowing a communication link that is free from RF interference and thus makes the link more reliable. Accordingly, such modification would have been an obvious extension as taught by Johnsen as modified by Shah and Curbelo, and therefore an obvious expedient.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keller, US patent No. 4,771,840, discloses an articulated power-driven shopping cart.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

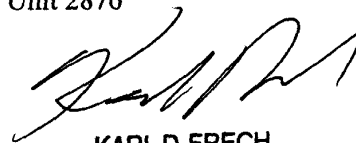
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr
Examiner
Art Unit 2876

DS
July 20, 2001


KARL D. FRECH
PRIMARY EXAMINER